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| 10/596,906 | 06/28/2006 | Takashi Kumabe | NIS-16741 | 2073 |
| 40854 7590 09/22/2009 RANKIN, HILL, & CLARK LLP 38210 Glenn Avenue WILLOUGHBY, OH 44094-7808 | | | | |
| EXAMINER | | | | |
| KUMAR, RAKESH | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,906

Applicant(s)

KUMABE ET AL.

Examiner

RAKESH KUMAR

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 5,6,10 and 12-14 is/are rejected.
7) ☒ Claim(s) 7-9,11 and 15-19 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 20 May 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 04/22/2009;08/20/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ ~~Notice of Informal Patent Application~~
6) ☐ Other: _____

Final Rejection

Drawings

The replacement drawings of Figures 6,10,14 and 16-19 were received on 05/20/2009. These drawings are acceptable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6,10,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shin (US 2003/0183645 A1) in view of Waldrum (US 5,020,725).

Referring to claims 5. Shin discloses a vending machine (Figure 2) comprising: an article stocker (30) that stores a plurality of articles (800);
an article moving mechanism (including 31,32 and 34; Figure 3) that moves at least one of the plurality of articles (800) stored in the article stocker (30) into an article guide path (40; Figure 4);

a manual operation means (600; Figure 1) driving a motor (31) driven by the electric power and

the article moving mechanism (including 31.32 and 34; Figure 3) being constructed to operate by utilizing the output of the motor (31) as the operation source.

Shin does not disclose a manual operation means that is manually driven and does not disclose drive force generation/transmission mechanism that generates a drive force driving the electric motor.

Waldrum discloses a manual driven apparatus (Figure 1) comprising a manual operation means (34) that is manually driven;

and a drive force generation/transmission mechanism that generates a drive force by utilizing a force applied from the manual operation means and transmits the drive force to the article moving mechanism (16; see Figure 2) as an operation source therefor,

the drive force generation/transmission mechanism including a generator (36) that generates an electric power by utilizing the force applied from the manual operation means (34) and a motor driven (16) by the electric power (42) generated by the generator (36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Shin to include a manual operation means (34) that is manually driven providing electric power to the motor driving the article moving mechanism as taught by Waldrum because the manually

driven vending apparatus would be designed to function in case of a power outage or in remote locations where electric power is inaccessible.

Referring to claims 12. Waldrum discloses a manual driven apparatus (Figure 1) comprising a manual operation means (34) that is manually driven;

further comprising a display device (58; Figure 2) that carries out electrical and/or voice indication by using the output of the generator (36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Shin to include a display device that carries out electrical indication using the output of the generator as taught by Waldrum because the vending machine would be easier to use by a user when the display is shown to the user.

Referring to claim 13. Waldrum discloses a manual driven apparatus (Figure 1) comprising a manual operation means (34) that is manually driven;

wherein the manual operation means (34) includes a rotary member (34) rotating about a rotating shaft (center of member 66) and a handle (handle of 34) section provided at the rotary member (34), which is operated to rotate the rotary member, and wherein the drive force generation/transmission mechanism (36) includes an accelerating mechanism that causes the rotating shaft of the generator to rotate at a higher speed (see gear mechanism 66,67,68) than that of the rotary member (34) by utilizing the rotation of the rotary member.

Referring to claim 6. Shin discloses a vending machine (Figure 2) comprising: an article stocker (30) that stores a plurality of articles (800);

wherein the drive force generation/transmission mechanism (activating buttons 600) include coin collecting devices (400 and 500) provided correspondingly at the article stockers to collect a required number of coins for dispensing the article, wherein the motor selection/drive device is constructed to select the motor corresponding to the coin collecting device to which the required number of coins have been inserted and to supply the electric power from the generator only to the selected motor (the vending apparatus as disclosed in Figure 1 allows for a user to add moneys to the collection box and then select the article wanted by buttons 600).

Referring to claim 10. Waldrum discloses a manual driven apparatus (Figure 1) comprising a manual operation means (34) that is manually driven;

comprising a battery or rechargeable battery (Col. 1) to be charged with the output of a battery or the generator, wherein the battery or the battery or rechargeable battery is used as a driving power source for the motor selection/drive device.

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shin in view of Waldrum and further in view of Takagi (US 4,480,764).

Referring to claims 4,14. Shin discloses a vending machine (Figure 2) comprising: an article stocker (30) that stores a plurality of articles (800); wherein the article moving mechanism (including 31,32 and 34; Figure 3) includes a rotating shaft (34; Figure 3) having an axis line that coincides with a center line of the article stocker (30; see Figure 3) and a second moving mechanism (32) that moves the article (800), which has been moved to the predetermined position (bottom most article; see Figure 5 and 6) as the rotating shaft rotates (34), into the article guide path (40).

Shin in view of Waldrum do not disclose a first moving mechanism wherein the article stocker rotated by rotating shaft driven by a drive force.

Takagi discloses a dispenser (Figure 1) wherein the article stocker (22; Figure 2) is rotated by a drive force applied to a rotating shaft (13 by a motor 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Shin in view of Waldrum such that the article stocker is rotated by the moving mechanism driven by a motor as taught by Takagi because it would allow the dispenser to move each stocking magazine to the second moving mechanism thus save apparatus cost.

Allowable Subject Matter

Claims 7-9,11 and 15-19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, see Remarks, filed 05/20/2009, with respect to "Objection to the Drawings" and the "Rejection under 35 USC 112 second paragraph" have been fully considered and are persuasive. The Drawing objections and the Rejection under 35 USC 112 second paragraph as stated in the Office action dated 01/22/2009 have been withdrawn.

Regarding claims 1-3, 5,6,10 and 12, the Applicants argues the teachings of Shin is directed to a vending machine for kimchi which in turn requires a compressor and low temperatures which in combination with the teachings of Waldrum would not be able to provide sufficient power to operate the apparatus as disclosed by Shin.

In view of the Office the Applicant has narrowly defined the articles that the vending apparatus of Shin would be able to dispense. The vending apparatus would be just as effective as dispensing a nonperishable article such as packages of cards which would not require the compressor to operate for the machine to be able to vend articles. The low temperatures may not be need for vending standard article. Furthermore the

claimed limitations do require a stated length of time the user would manually operate the generation/transmission mechanism. Thus it is in the view of the Office, the vending apparatus of Shin can effectively function to dispense articles contained within the stocker by manual power as indicated or recited in the applicants claimed limitations.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the vending apparatus as a whole is capable of dispensing nonperishable articles. The vending apparatus to function as claimed in the applicants limitations would require a power source to function which is taught by the teaching of Waldrum. It would have been obvious to one of ordinary skilled in the art when viewing the teaching of Waldrum that the user would be able scale up the generation/transmission mechanism to provide the power needed to operate the vending machine.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **RAKESH KUMAR** whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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